

EMBASSY OF THE
UNITED STATES OF AMERICA

04-51

Note No. 016

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the United Arab Emirates and refers to recent discussions between representatives of the Government of the United States of America and the Government of the United Arab Emirates regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction,

Affirming that nothing in this exchange of notes precludes each Party from exercising its criminal jurisdiction over those responsible for genocide, crimes against humanity and war crimes,

Confirming that nothing in this exchange of notes provides impunity with regard to genocide, crimes against humanity and war crimes,

Considering that the Government of the United States of America and the Government of the United Arab Emirates have each expressed their intention to evaluate, by duly authorized governmental entities, available information and where it is appropriate to prosecute acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute,

The Embassy proposes the following exchange of notes:

1. For purposes of this exchange of notes, "persons" are:

- (a) nationals of one Party; or
- (b) military personnel of one Party with respect to acts or omissions allegedly committed or occurring while they are or were military personnel.

2. Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,

(a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.

3. When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the United Arab Emirates to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the United Arab Emirates.

4. When the Government of the United Arab Emirates extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the United Arab Emirates will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.

5. This arrangement shall remain in force until nine months after the date on which one Party notifies the other of its intent to terminate the arrangement. The provisions of this arrangement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the United Arab Emirates, this note and the Ministry's affirmative note in reply shall constitute binding obligations under international law from the date of the Ministry's note in reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the United Arab Emirates the assurances of its highest consideration.

Embassy of the United States of America,

January 27, 2004.





The Ministry of Foreign Affairs of the United Arab Emirates presents its compliments to the Embassy of the United States of America in Abu Dhabi , and with reference to the Embassy 's note number (016) dated 27 January 2004 which reads as follows:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the United Arab Emirates and refers to recent discussions between representatives of the Government of the United States of America and the Government of the United Arab Emirates regarding the surrender of persons to the International Criminal Court.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes .

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction ,

Affirming that nothing in this exchange of notes precludes each party from exercising its criminal jurisdiction over those responsible for genocide, crimes against humanity and war crimes .

Confirming that nothing in this exchange of notes provides impunity with regard to genocide, crimes against humanity and war crimes .

Considering that the Government of the United States of America and the Government of the United Arab Emirates have each expressed their intention to evaluate , by duly authorized governmental entities, available information and where it is appropriate to prosecute acts within the jurisdiction of the International Criminal Court alleged to have been committed by their officials, employees, military personnel or other nationals,

Bearing in mind Article 98 of the Rome Statute ,

The Embassy proposes the following exchange of notes :

1- For purposes of this exchange of notes, "persons" are :

- a- nationals of one Party; or
- b- military personnel of one Party with respect to acts or omissions allegedly committed or occurring while they are or were military personnel.



- 2- Persons of one Party present in the territory of the other shall not, absent the express consent of the first Party,
 - a- be surrendered or transferred by any means to the International Criminal Court for any purpose, or
 - b- be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court.
- 3- When the Government of the United States of America extradites, surrenders, or otherwise transfers a person of the United Arab Emirates to a third country, the Government of the United States of America will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the express consent of the Government of the United Arab Emirates.
- 4- When the Government of the United Arab Emirates extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of the United Arab Emirates will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the express consent of the Government of the United States of America.
- 5- This arrangement shall remain in force until nine months after the date on which one party notifies the other of its intent to terminate the arrangement. The provisions of this arrangement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of the United Arab Emirates, this note and the Ministry's affirmative note in reply shall constitute binding obligations under international law from the date of the Ministry's note in reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the United Arab Emirates the assurances of its highest consideration."

The Ministry of Foreign Affairs of the United Arab Emirates has the honor to inform the Embassy of the United States of America in Abu Dhabi that the Embassy's note and this reply of the Ministry of Foreign Affairs of the United Arab Emirates constitute binding obligations under International Law.

The Ministry of Foreign Affairs of the United Arab Emirates avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

15 February 2004

To the Embassy of the United States of America – Abu Dhabi